

in execution and sold for the satisfaction of debts; but a patent, by perfecting the legal title, immediately removed it beyond the reach of creditors in that way. To prevent this any creditor was allowed to file a caveat in the land office for the express purpose of stopping a patent, and so continuing the interest as a chattel real, and keeping it within reach of his remedies. But this imperfect legal title, although deemed a chattel real for the benefit of creditors, was, in all other respects, considered as real estate; and as such descended to his heirs, and did not pass into the hands of the executor or administrator. Yet where the debtor himself, not having, during his life-time, perfected his title, had died without heirs, a patent was directed to be issued to his executor or administrator to be treated as assets for the satisfaction of his debts and legacies. These were the settled rules of law with regard to any specified tract of land for which an individual had obtained from the Lord Proprietary an imperfect legal title short of a patent. *Land Hol. Assis.* 91, 115, 251 and 494, *note*.

But such a peculiar chattel real, as it was called, must not be confounded with a mere common warrant, before it had been laid
304 *upon any land, which was considered as nothing more than a general authority to acquire a title to so much vacant land any where within the State. Such a common warrant, not being the commencement of a title to any land in particular, was always considered as mere personalty, as a sort of *chose in action*, which, on the death of the holder, was held to be assets in the hands of his executor or administrator. And these principles of law seem to have been affirmed by legislative enactments since that time. 1798, ch. 101, sub-ch. 14, s. 3.

There is a singular instance to be met with among the records of the land office, in which lands were made liable for the satisfaction of the debts of its deceased owner. Instead of an extent, or an absolute sale of a part, as in England, in acceleration of payment; an inquest was ordered to ascertain the annual value of the whole, and what number of years at that value, would be equal to the whole amount of the debts due; and then a lease was sold, clear of dower and all other incumbrances to a bidder for the shortest term not exceeding the time so ascertained. *Land Hol. Assis.* 218; *Harvey v. Harvey*, 3 *Rep. Chan.* 87.

There appears to have been several private Acts passed at an early period of the Provincial Government, authorizing the sale of the lands of deceased debtors for the payment of their debts; 1704, ch. 13; 1720, ch. 28; 1727, ch. 20; but it does not seem to have been a common practice; nor to have been an occasional mode of interposing to remove an evil or supply a defect in the general law.

In the year 1732, at the instance and solicitation of merchants, resident in Great Britain, trading to this country, the British Par-